

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

KYLE EYRE, as Personal
Representative of the ESTATE OF
CODY EYRE,

Plaintiff,

v.

THE CITY OF FAIRBANKS, *et al.*

Defendants.

Case No. 4:19-cv-00038-SLG

ORDER REGARDING MOTION FOR RECONSIDERATION

Before the Court at Docket 68 is defendant State of Alaska's Motion for Reconsideration. Plaintiff Estate of Cody Eyre responded in opposition at Docket 72.

The State of Alaska seeks reconsideration of the Court's order at Docket 65, which denied without prejudice Defendants' motions for summary judgment and granted Plaintiff's Rule 56(d) motion for additional time to complete depositions. The State of Alaska now asserts that Plaintiff should not be allowed "to belatedly conduct the depositions of the individual officers" because Plaintiff "should not now be rewarded for its failure to diligently conduct discovery or even communicate why such discovery could not be timely completed" ¹ Plaintiff

¹ Docket 68 at 1, 3–4.

responds that the State of Alaska has not shown any justification for reconsideration of the Court's order and that the COVID-19 pandemic has caused delays and has complicated arranging taking depositions of the officers.²

The State of Alaska has not made the requisite showing to justify reconsideration of the Court's order. Reconsideration requires a showing of "manifest error of the law or fact," "discovery of new material facts not previously available," or an "intervening change in the law."³ The State of Alaska has not asserted manifest error or a change in the law, and all of the material facts asserted in its motion were available to it at the time it filed its reply to the Plaintiff's opposition to summary judgment, in which it addressed the Plaintiff's request for additional time to conduct depositions.⁴ Accordingly, the State of Alaska has not shown that reconsideration is warranted.

In light of the foregoing, IT IS ORDERED that the motion at Docket 68 is DENIED.

DATED this 3rd day of December, 2021, at Anchorage, Alaska.

/s/ Sharon L. Gleason
UNITED STATES DISTRICT JUDGE

² Docket 72 at 2–3.

³ D. Alaska L. Civ. R. 7.3(h)(1).

⁴ See Docket 54 at 3–13. The Court finds the State of Alaska's assertion that "the State did not intend to treat the Estate's opposition as a discovery motion" to be disingenuous. Docket 67 at 2. The State of Alaska devoted 10 pages in its reply regarding summary judgment to addressing why additional time for discovery was not appropriate, cited to the Rule 56(d) standard, and specifically wrote that "the *Estate's motion* for additional time to respond to defendant's motion should be denied." Docket 54 at 13 (emphasis added).